



United States  
General Accounting Office  
Washington, D.C. 20548

Office of the General Counsel

B-261261

Harlan R. Hively  
Department of Veterans Affairs  
Austin Finance Center  
P.O. Box 149975  
Austin, Texas 78714-9575

Dear Mr. Hively:

This is in response to your request of April 13, 1995, that we grant relief from liability under 31 U.S.C. § 3527 to Ms. Beverly Edwards, Alternate Agent Cashier, at the Veterans Administration Medical Center, Los Angeles, California, for the physical loss of \$10,142.80 from her account. We hereby grant your request and relieve Ms. Edwards from liability for the loss. You also requested permission to restore the missing \$10,142.80 along with two other shortages of \$27,590.58 and \$2,077.39 for which former Agent Cashier Michael Jones is liable. As explained below, these adjustments may be made without GAO involvement if the proper agency determinations are made.

On November 22, 1993, Ms. Edwards finished work and departed the Medical Center for the day. The drawer containing her funds was properly locked in the safe for the evening. After she departed an armed robber forced Agent Cashier Mr. Michael Jones to open the safe at gunpoint. The armed robber then shot Mr. Jones and absconded with \$37,733.38 in currency and checks. Of this amount, \$10,142.80 was from Mrs. Edwards' account and \$27,590.58 was from Mrs. Jones account. An investigation of the incident was conducted by local police, Veterans Administration (VA) criminal investigators, and the Federal Bureau of Investigation (FBI). The investigation revealed Ms. Edwards was not involved and resulted in a confession by Mr. Jones that he and a male accomplice staged the robbery and stole the funds. The accomplice shot Mr. Jones in the shoulder to make the story of an armed robbery appear genuine. Mr. Jones resigned from the VA on April 4, 1994. An audit of his cash advance at that time revealed an additional shortage of \$2,077.39.

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After reviewing the reports of the investigation, Kenneth J. Clark, the Director of the medical center (Director) determined that Ms. Edwards was carrying out her official duties when the incident occurred and was without fault regarding the loss. He requested that Ms. Edwards be granted relief for the funds taken from her drawer. Nevertheless, the Director concluded that Mr. Jones should remain liable for the total shortage of \$ 39,810.77. A bill of collection was issued to Mr. Jones and the medical center is working closely with Mr. Jones' probation officer to recoup the funds. The Department agrees with the Director's conclusions.

This Office may relieve an accountable officer of liability for physical loss of government funds if it concurs with the determination by the head of the agency, or any official delegated such authority, that the loss occurred while the officer was acting in his or her official capacity and was not the result of fault or negligence on the part of the officer. 31 U.S.C. § 3527(a) (1988); B-226695, May 26, 1987.

In cases similar to this, that is, where there is no evidence to implicate an accountable officer in a robbery, we have concurred with the agency's determination to relieve the accountable officers. See B-235458, Aug. 23, 1990; B-213721, Jan. 31, 1984. Based on the record before us, we concur in the findings of the department that Ms. Edwards was acting in discharge of her official duties and that she was without fault or negligence. Accordingly, we grant Ms. Edwards relief from liability for the loss of her portion of the stolen funds. We also approve the adjustment for \$10,142.80 you requested.

You also request permission to restore two other shortages of \$27,590.58 and \$2,077.39. As for these adjustments, our Policy and Procedures Manual advises that:

"If relief is denied . . . by the agency concerned, or the agency declines to seek relief because the loss is deemed attributable to fault or negligence of the accountable officer, and the agency determines that (1) the loss cannot be recovered from the accountable officer or from any payee, beneficiary, recipient, or other liable party, and (2) an adjustment is necessary, the agency may make the adjustment as provided in this section without further involvement by GAO. The adjustment does not affect the accountable officer's liability for the loss."

GAO, Policy and Procedures Manual for Guidance of Federal Agencies, tit. 7, § 7.8-14 (May 1993).

The Director has already determined that Mr. Jones is liable, the recovery of the

money appears doubtful and that an adjustment is warranted. Therefore, if the proper agency officials concur with the Director's determinations, the remaining adjustments may be made without GAO involvement. If any funds are recovered from Mr. Jones the appropriate adjustments may be made.

Sincerely,

Gary L. Kepplinger  
Associate General Counsel